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GOVERNOR

STATE OF MICHIGAN  
OFFICE OF FINANCIAL AND INSURANCE SERVICES  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
ROBERT W. SWANSON, ACTING DIRECTOR

LINDA A. WATTERS  
COMMISSIONER

## BILL ANALYSIS

**BILL NUMBER:** House Bill 4177, as introduced

**TOPIC:** Prohibit no-fault premium increases or reinstatement fees for certain military personnel called into active duty

**SPONSOR:** Representative Dudley Spade

**CO-SPONSORS:** Representatives Jeff Mayes, Richard Hammel, Lee Gonzales, Ed Clemente, Kathleen Law, Martin Griffin, Robert Dean, Lisa Wojno, Barbara Farrah, Alma Smith, Mary Valentine, Kathy Angerer, Kate Ebli, Richard LeBlanc, Gino Polidori, Doug Bennett, Michael Sak, LaMar Lemmons, Fred Miller, Mark Meadows, Frank Accavitti, Pam Byrnes, Joel Sheltrown, Gary McDowell, Steve Tobocman, Ted Hammon, Hoon-Yung Hopgood, Bert Johnson, Bob Constan, Rick Jones

**COMMITTEE:** House Committee on Insurance

**Analysis Done:** February 26, 2007

### POSITION

The Office of Financial and Insurance Services (OFIS) supports this legislation.

### PROBLEM/BACKGROUND

In Michigan, Section 500.3101 of the Insurance Code of 1956, MCL 500.3101, requires that insurance be maintained on any vehicle that is owned and operated upon a highway. Section 500.2118(2)(d), MCL 500.2118(2)(d), allows insurers to refuse to insure a person based on failure to provide proof that insurance required by Section 3101 was maintained in force for any vehicle that was owned by the person and driven or moved by the person or by a member of the household of the person during the 6-month period immediately preceding application. However, Section 2118(2)(d) also requires insurers to give applicants a form on which they can certify that the vehicle was not driven or moved without the insurance required by Section 3101 during the 6-month period immediately preceding application. Therefore, if the applicant certifies that the vehicle was not driven or moved without the required insurance during the 6-month period immediately preceding application, the insurer cannot refuse to insure the

applicant for lack of prior insurance. The Office of Financial and Insurance Services (OFIS) issued an informational bulletin to all auto insurance companies on June 24, 2004 to remind insurers of their obligation to provide such a certification form to all individuals who have had a lapse in coverage.

### **DESCRIPTION OF BILL**

The proposed legislation would specifically prohibit insurers from refusing to insure, refusing to continue to insure, limiting coverage, charging a reinstatement fee for, or increasing the premiums for automobile insurance solely because a person did not maintain automobile insurance if the person certifies that the lapse in coverage was because the person was on active duty in the armed forces of the United States.

### **SUMMARY OF ARGUMENTS**

#### **Pro**

The OFIS issued a clarifying bulletin in June of 2004 to all auto insurance companies informing them of their responsibility in regard to providing an appropriate form for individuals to use to certify that their vehicle had not been driven during the preceding six-month period, per Section 500.2118(2)(d). However, an OFIS bulletin does not carry the weight of statutory language and there may be companies that are not following the guidance provided in the bulletin. Further, the OFIS bulletin only addressed the issue of eligibility. Therefore, the proposed legislation would statutorily mandate that all companies comply with Section 500.2118(2)(d) in regard to lapse in coverage and would further clarify that those in active duty in the armed forces not be charged additional fees due to such a lapse in coverage if the armed forces member certifies that the lapse was because the person was on active duty. The proposed legislation would protect active armed forces' personnel from facing additional financial hardships on auto insurance policy matters due to their service in the armed forces and to the United States of America.

#### **Con**

The proposed legislation may provide persons on active duty in the armed forces with additional protections above and beyond those required by Section 500.2118(2)(d), such as protection from reinstatement fees or an increase in premiums due to a lapse in coverage. It could be argued that all individuals should be offered these same protections, rather than selecting one specific group of individuals to receive benefits not offered to all policyholders.

## **FISCAL/ECONOMIC IMPACT**

OFIS has identified the following revenue or budgetary implications in the bill as follows:

(a) To the Office of Financial and Insurance Services:

Budgetary: The OFIS may incur additional expense to review and monitor all companies to ensure that they are in compliance with the proposed legislation.

Revenue:

Comments:

(b) To the Department of Labor and Economic Growth: None known.

Budgetary:

Revenue:

Comments:

(c) To the State of Michigan: None known.

Budgetary:

Revenue:

Comments:

(d) To Local Governments within this State: None known.

Comments:

## **OTHER STATE DEPARTMENTS**

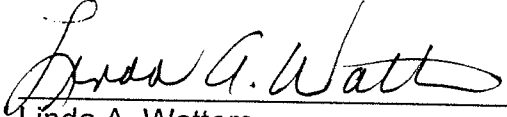
None known.

## **ANY OTHER PERTINENT INFORMATION**

The OFIS issued an information bulletin to all insurance companies on this topic, Bulletin 2004-03-INS, on June 24, 2004. This proposed legislation is also similar to legislation introduced in previous legislative sessions.

**ADMINISTRATIVE RULES IMPACT**

This proposed legislation would amend the Michigan Insurance Code. The OFIS does have general rulemaking authority under the Insurance Code of 1956, 1956 PA 218.



Linda A. Watters  
Commissioner

2-27-07  
Date